

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Ellen McCarthy

DATE: September 26, 2006

SUBJECT: Zoning Commission Case 04-33, Inclusionary Zoning, Phase 2
Final Office of Planning Report on Zoning Text Changes to Apply the Adopted
Inclusionary Zoning Program to Certain Zones and Areas of the District of Columbia

The Office of Planning's (OP's) final report on the second stage of the Inclusionary Zoning process is enclosed. It recommends zoning text changes to govern the application of the mandatory Inclusionary Program to a wide range of zones and areas of the City. The Zoning Commission set down OP's preliminary recommendations on July 10, 2006.

The report contains:

- An eight page executive summary, followed by
- A description of where OP recommends the program apply
- An assessment of the recommended program application's impact, with separate sections for general neighborhood, historic district and zoning overlay analyses.

The report concludes with:

- An identification of issues meriting additional consideration in the future, and
- A summary of comments received in writing and at public forums hosted by OP.

EMcC / ar-slc

**Zoning Commission Case 04-33
Inclusionary Zoning Mapping Final Report**

September 25, 2006

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY:	2
A.	PURPOSE OF REPORT	2
B.	OFFICE OF PLANNING RECOMMENDATIONS.....	2
C.	ADDITIONAL STUDY	3
D.	PROGRAM PROCESS, CONCEPTS, AND APPROACH.....	5
II.	PROGRAM DESCRIPTION.....	9
A.	EXCLUDED ZONE DISTRICTS	9
B.	INCLUDED ZONE DISTRICTS	11
III.	IMPACT ANALYSIS	17
A.	DEVELOPMENT & POPULATION.....	17
B.	SCHOOLS	25
C.	INFRASTRUCTURE	26
D.	GENERAL NEIGHBORHOOD ANALYSIS.....	31
E.	HISTORIC DISTRICT NEIGHBORHOOD ANALYSIS	55
F.	ZONING OVERLAYS ANALYSIS.....	63
IV.	other issues for consideration	71
A.	CLARIFICATION OF BASIS FOR CALCULATING MINIMUM PERCENT OF UNITS AFFORDABLE	71
B.	ZONING ENVELOPE FLEXIBILITY	71
V.	COMMENTS RECEIVED.....	72
A.	ANC COMMENTS	72
B.	AGENCY COMMENTS	73
VI.	SUMMARY.....	73

I. EXECUTIVE SUMMARY:

A. PURPOSE OF REPORT

This report was prepared by the District of Columbia Office of Planning (OP) and contains OP's recommendations for putting into affect Inclusionary Zoning (IZ) recommendations adopted by the Zoning Commission in 2005 and published on August 26, 2006 as Zoning Commission Order No. 04-33. This report outlines proposed text changes to link the IZ program design for the zoning envelope requirements and restrictions to each zone and portions of zones within which the IZ program would be applied.

B. OFFICE OF PLANNING RECOMMENDATIONS

OP Recommends that:

1. The Zoning Commission adopts text amendments to apply the Inclusionary Zoning (IZ) requirements of Order No.04-33 to the following zones:

- Residential Zones: R-3 through R-5-D
- Commercial Zones: C-1 through C-3-C
- Other Mixed-Use Zones: CR, SP and W-1 through W-3;

But excluding the following portions be excluded:

- The Downtown Development District (DD)
- Transferable Development Rights (TDR) Receiving Zones as defined on the effective date of these regulations
- The W-2 zoned portions of the Georgetown historic district
- The R-3 zoned portions of the Anacostia Historic District
- The C-2-A portion of the Naval Observatory Precinct District zoning overlay.

The exclusions reflect a general inability to accommodate certain height or lot occupancy increases needed to provide Inclusionary Zoning bonus density. This may be due to: an inability to provide more density within the confines of the 1910 Height Act; conflicts with the basic character of a historic district; a potential physical interference with federal interests.

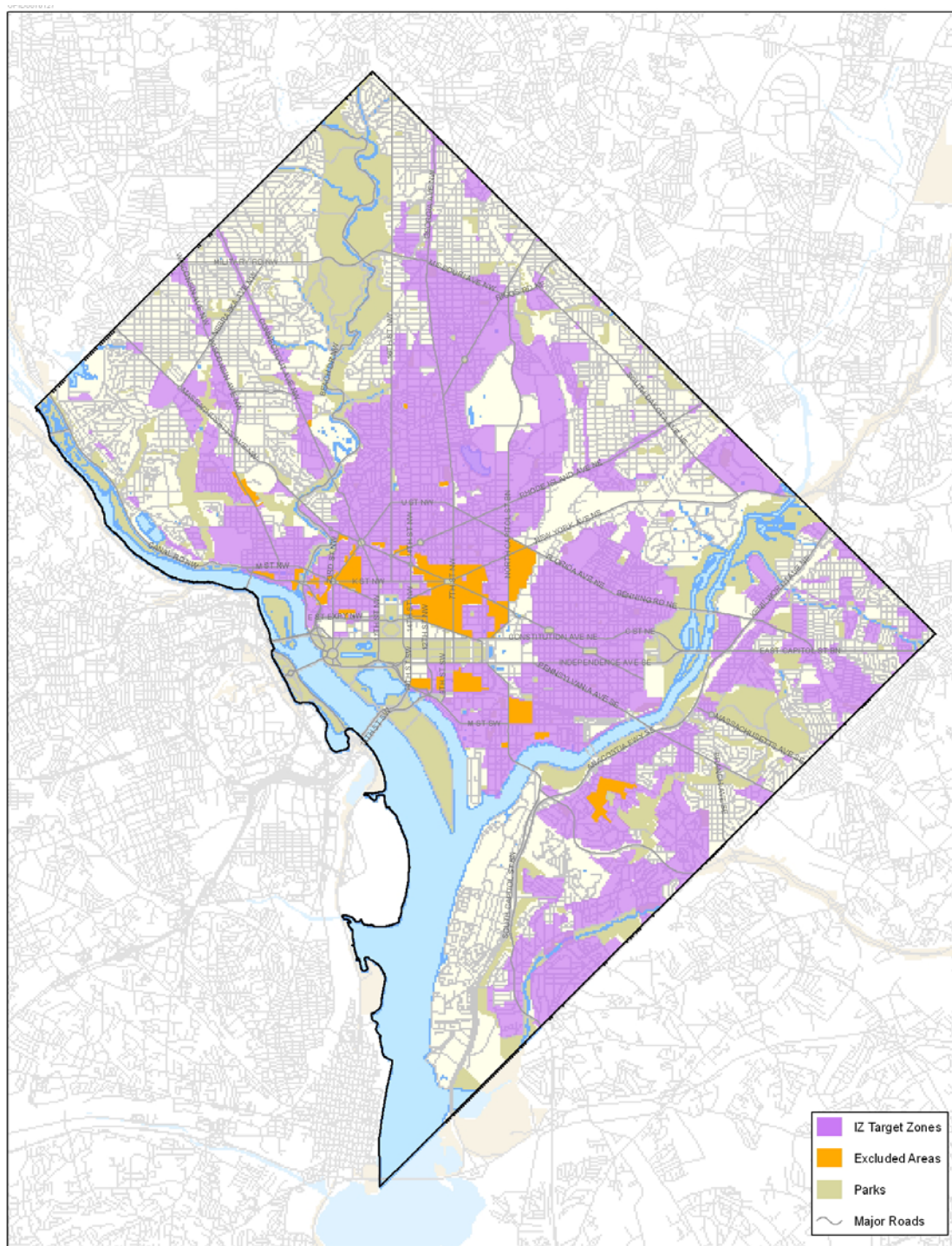
Map 1 on the next page is an illustration of where OP recommends IZ apply within the District. If the zoning of an area changes from a zone where IZ does not now apply to one where it does apply, IZ would automatically apply

2. The Commission respect the intent of Overlay Zones that restrict density, height and/or lot occupancy by requiring the density bonus and/or the net change in height or lot occupancy permitted by requiring that Inclusionary Zoning bonus density to be added to the overlay's limits, not to the base zone's limits absent the overlay.
3. The Commission give priority to bonus density and residential requirements resulting from Inclusionary Zoning over bonus density for preferred uses in overlay zones.
4. The Commission require Planned Unit Developments (PUDs) to reserve no less than the minimum number of affordable units specified in Order No. 04-33; and that a PUD's total density bonus -- inclusive of any IZ bonus -- remain the same as what is normally permitted a PUD in the site's existing or requested zone and in its existing zoning overlay.
5. The Commission base the minimum mandatory affordability requirement for mixed use projects on the amount of residential square footage provided, and not on the total matter of right development; and, that the Commission restrict the height bonus to only the residential portion of the project.

C. ADDITIONAL STUDY

As staff worked through the analysis, OP found that consideration is needed for permitting additional height instead of greater lot occupancy for the C-2-C and SP-2 zones. In addition there are zones (e.g., C-2-A and CR) that could benefit from the opportunity to achieve IZ bonus density through either lot occupancy or height bonuses but not both, as opposed to mandating one or the other. OP noticed that there may be opportunity for IZ to be applied to the R-2 zone through the use of semi-detached dwellings. It may be necessary to investigate if additional height is needed in the C-3-C zones where IZ applies. OP will also need to examine requirements for mid-block sites where the Height Act may limit building heights below those otherwise permitted by the Zoning Regulations.

OP will continue to analyze these issues and report back to the Zoning Commission for possible further refinements of the IZ text.



Map 1. Recommended IZ Zones and Excluded Areas (See Appendix Map 1 for 11"x17")

D. PROGRAM PROCESS, CONCEPTS, AND APPROACH

At the May 9, 2005 hearing the Zoning Commission decided to consider Inclusionary Zoning (IZ) proposals for the District in two steps: 1) IZ Program Text; 2) IZ Application Text.

1. Process

a. Inclusionary Zoning Program Text

The Zoning Commission took final action on the IZ program text at its May 18, 2006 public meeting. The final Order No. 04-33 was published on August 26, 2006.

Briefly, the IZ program:

- Applies only to new developments of 10 or more for-sale or rental units;
- Applies to rehabilitation projects that involve an expansion of 10 or more units and if the rehabilitation expands the building's square footage by at least 50%;
- Requires a minimum affordable unit set-aside of 8% or 10% of the total residential square footage depending on the type of construction;
- Mandates that affordable units comprise 75% of bonus density for lower-rise "stick-built" construction in residential zones R-3 through R-5-B, and C-1, C-2-A and W-1; and 50% of bonus density for steel and concrete (typically high-rise) construction in residential zones R-5-C through R-5-E, and commercial zones from C-2-B through C-4, SP and W-2- or W-3 zones;
- Permits density increases up to 20%;
- Incorporates flexibility for lot occupancy and height in order to use bonus density;
- Requires that affordable units be set aside for households earning up to 50% or 80% of Area Median Income (currently \$32,000 - \$72,000 depending on family size), depending on the type of construction employed in the project;
- Requires that both for-sale and rental affordable units remain affordable for the life of the project.

The maximum height, lot occupancy and FAR increases authorized by the Zoning Commission to accommodate the bonus density for IZ are shown in Tables 1 and 2, below.

Base Zone	Matter of Right		IZ Zoning Modifications	
	Minimum Lot Area	Minimum Lot Width	IZ Minimum Lot Area	IZ Minimum Lot Width
R-3	2,000	20	1,600	16.0
R-4	1,800	18	1,500	15.0

Table1. IZ Flexibility in Residential Zones

Base Zone	Matter of Right Zoning Constraints			IZ Zoning Modifications		
	Lot Occupancy	Zoning Height	Zoning FAR	Lot Occupancy	Height	Permitted FAR w/Bonus
CR	75%	90	6.00	80%	100	7.20
C-2-A	60%	50	2.50	75%	50	3.00
C-2-B	80%	65	3.50	80%	70	4.20
C-2-C	80%	90	6.00	90%	90	7.20
C-3-A	75%	65	4.00	80%	65	4.80
W-1	80%	40	2.50	80%	50	3.00
W-2	75%	60	4.00	75%	80	4.80
W-3	75%	90	6.00	80%	100	7.20
SP-1	80%	65	4.00	80%	70	4.80
SP-2	80%	90	6.00	90%	90	7.20

Table 2. IZ Flexibility in Commercial Mixed-Use Zones

The Commission determined that IZ should apply to the following zones that permit residential use and that in these zones the proposed bonuses could be accommodated without additions to currently permitted height or lot occupancy:

- R-5-A through R-5-D
- C-1
- C-3-A through C-3-C.

b. Inclusionary Zoning Application Text

This report contains OP's Phase 2 recommendations for text changes to apply the IZ program. It also considers what, if any, effect IZ will have on schools, transportation, parking, water and sewer and neighborhood character, and reaffirms or modifies the recommendations in OP's June 30, 2006 report, accordingly.

c. Empowering Legislation

Concurrently, the Mayor and the Chair of the Council have introduced empowering legislation and are preparing administrative regulations to govern the management and enforcement of the inclusionary units. Public hearings are scheduled for October 10, 2006.

2. Concepts

In its May 6, 2006 report to the Zoning Commission, OP suggested that particular areas of the City be mapped with an Inclusionary Zoning overlay. Since then, OP has reexamined those initial recommendations and, based on testimony and Commission comments, has modified the mapping proposal using the criteria described fully in the June 30, 2006 report. Briefly, these concepts are:

- Equity – Testimony at the initial public hearing expressed concern about the disparate impacts on property owners facing IZ requirements versus property owners across the street but in the same zone district from those without IZ requirements. OP recommendations seek an equitable application of the regulations for all property owners within similar applicable zones, and an equitable City-wide distribution of affordable units to all neighborhoods within applicable zones.
- Simplicity – OP's initial IZ overlay was based on a complex set of criteria that would have been difficult to map, interpret and enforce. The new recommendations are intended to simplify understanding where IZ does and doesn't apply. By linking the applicability of the regulations to zones rather than to squares and parcels, there will be no need to amend overlay map boundaries each time a parcel is rezoned, thus providing certainty and ease of administration for the IZ process.
- Effectiveness – Extending the requirement to all appropriate zone districts will maximize the opportunity IZ provides to develop affordable housing throughout the City.

OP also considered two issues raised by the Zoning Commission during its setdown deliberations:

- Transportation Corridors –The Commission instructed OP to regard principal Metrobus lines as well as Metrorail lines as major transportation corridors, since 90% of the District's population is within a 5 minute walk of a bus line, which is a transportation mode heavily used by lower income households.
- Availability of Bonus Density – The Commission also directed OP to exclude areas where there is no opportunity for achieving bonus density to balance IZ requirements.

3. Approach

The Office of Planning has analyzed where IZ should apply from two different viewpoints:

a. Overlay Approach

OP's first mapping proposal in 2005 took an additive approach. It started with a blank slate and then added particular criteria and considered an overlay to map those criteria. The resulting map was considered too complex by the Zoning Commission, the public, and OP.

b. Zone District Approach

This current approach is subtractive. It starts with the assumption that IZ should apply as broadly as possible in the City, and then should be omitted from areas where it would be impossible, impractical, or inappropriate for it to be applied. By linking the applicability of the regulations to certain zones, there will be flexibility built into the regulations that will obviate the need to amend fixed map boundaries each time a parcel or an area is rezoned.

Order No. 04-33, excluded:

- Zones where the building form needed to accommodate IZ would be contrary to the intentions of the Comprehensive Plan and the Zoning Regulations (e.g., the R-1 and R-2 zone districts);
- Zones that do not permit a residential use (i.e. GOV, M and C-M).

Based on OP's June 30, 2006 report, the Zoning Commission excluded from advertising:

- Zone categories where there was no possibility of achieving bonus density in conjunction with the provision of affordable housing – a core principle of the Zoning Commission's rulemaking (e.g., the Downtown Development District (DD) and Transferable Development Right (TDR) receiving zones);
- Zones where the building envelope changes needed to accommodate bonus density made configuration of residential units essentially unachievable, or made their external impacts unacceptable (e.g., R-5-E).

With the above-noted zones, and overlays eliminated or not advertised by the Commission, OP then examined the impacts of IZ on the remaining zones. For those zones, the interactions with IZ were examined with respect to:

- Development and Population;
- Public Services, particularly schools
- Infrastructure, particularly Transportation, Parking and Parking, and Water/Sewer Capacity
- Neighborhood Character, particularly physical form and historic district preservation.

Based on this analysis and discussions with other public agencies, OP further recommends excluding:

Zones where the IZ bonus densities in portions of zones, historic districts and zoning overlays were eliminated in addition to those that had been recommended in the June 30, 2006 setdown report. In this report, OP proposes also excluding:

- Zones where the IZ bonus density would make Historic Preservation Review Board (HPRB) approval unlikely (viz., the W-2 portion of the Georgetown Historic District and the R-3 zoned portion of the Anacostia Historic District); and,
- Zoning overlays that limit height to below the matter-of-right, due to federal interests (i.e., the C-2-A portion of the Naval Observatory overlay).

The remaining zones and portions of zones resulting from this subtractive process are those listed in OP's final recommendations on page 1 of this report, and illustrated in *Map 1*.

OP believes that the subtractive approach has resulted in much clearer, equitable and implementable recommendations, which are contained in this report.

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

A horizontal number line labeled "Miles" with tick marks at 0, 0.5, 1, and 1.5.

MAP 1